



## DEPARTMENT OF ENVIRONMENTAL QUALITY

KATHLEEN BABINEAUX BLANCO  
GOVERNOR

FEB 26 2007

MIKE D. McDANIEL, Ph.D.  
SECRETARY

Mr. Adam Babich  
Tulane Environmental Law Clinic  
6329 Feret St., Suite 130  
New Orleans, LA 70118-6231

Subject: AI 131721, LA0122092 LPDES Wastewater Discharge Permit for Waste Concepts.

Dear Mr. Babich,

This Office is in receipt of your letter dated September 19, 2006 regarding Waste Concepts proposed wastewater discharge permit. As a result of comments submitted during the public notice period, the following changes have been made to the final permit. Direct responses to your comments regarding the proposed permit are attached.

1. Discharges directly to waterbodies designated as Outstanding Natural Resource Waters (ONRWs) are prohibited. This will ensure no degradation of waterbodies designated as such by the discharges described in the permit. A list of these waterbodies is included in Part II, Section A, Paragraph 19.
2. The endangered species language has changed to address #1 above. Some waterbodies were removed based on the ONRW designation.
3. The company name and address have changed from Environmental Compliance Solutions, Inc. located at 5108 Hwy. 83, New Iberia, La. to Waste Concepts located at 9412 Round Oak Drive, Baton Rouge, La.
4. A reporting requirement for trichloroethylene has been included in the permit effluent limitations.
5. Sampling requirements have increased from 1/batch (prior to discharge) to 2/batch (prior to discharge and during discharge).
6. Specific conditions have been added to the Stormwater Pollution Prevention Plan.

### ENVIRONMENTAL SERVICES

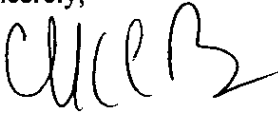
: PO BOX 4313, BATON ROUGE, LA 70821-4313  
P:225-219-3181 F:225-219-3309  
WWW.DEQ.LOUISIANA.GOV

7. Effluent limitations have changed for total phenol and cyanide. For cyanide, instead of the in-plant limitation and reporting requirement for the effluent, an effluent limitation based on human health drinking water standards has been placed in the permit. In the case of phenol, the effluent limit has been changed to a water quality based limit. These limits are more stringent and protective of water quality.

Pursuant to the Clean Water Act (33 U.S.C. 1251 *et seq.*), and the Louisiana Environmental Quality Act (La. R.S. 30:2001, *et seq.*), the LPDES permit has been issued. Provisions of this permit may be appealed in writing pursuant to La. R.S. 30:2050.21, 30:2050.22, 49:964(C), (F), and (G), and 30:2004 within 30 days after notice of the permit decision has been given. An aggrieved person may appeal a final LPDES permit by filing a petition for review with the 19<sup>th</sup> Judicial District Court in and for the Parish East Baton Rouge, Louisiana.

A copy of the final permit can be obtained by visiting our website [www.ldeq.louisiana.gov](http://www.ldeq.louisiana.gov) or contacting the Public Records Center at (225) 219-3168. Should you have any questions, concerning any part of the permit, please contact Mrs. Angela Marse of the Office of Environmental Services, Water Permits Division, Municipal and General Water Permits Section, at the address on the preceding page or telephone (225) 219-3079.

Sincerely,



Chuck Carr Brown, Ph. D.  
Assistant Secretary

AWM

ec: Angela Marse  
Permits Division

cc: IO-W

Mr. Rueben Ruiz  
Waste Concepts, LLC  
9412 Round Oak Drive  
Baton Rouge, LA 70817

- I. Comment:** LDEQ has not sufficiently analyzed the environmental impacts of the proposed permit because it has not considered the individual receiving water bodies. Without considering the location for each discharge under the Draft Permit, LDEQ can not completely analyze the environmental impacts that the discharge will have on the receiving water bodies. The agency is required to determine that adverse environmental impacts have been minimized or avoided as much as possible before granting approval of proposed action affecting the environment. LDEQ must support its environmental impact analysis (IT questions) with evidence in the administrative record. LDEQ cannot have conducted a lawful IT analysis on portable treatment unit because it has not specified into which waters the unit will discharge.

**Response:** The discharge is from a minor industrial facility discharging treated marine bilge and ballast water, treated barge washwater, treated internal vacuum tank washwater, treated crude inland oil spill water, treated used oil and diesel fuel tank washwater, treated washwater from oilfield equipment and vessels, treated industrial oily wastewater, treated slop wastewater, treated stormwater, treated washdown water, and treated kitchen grease. Although no specific receiving stream is identified the following considerations and/or safe guards are placed in the permit to minimize/prevent receiving stream impacts.

1. The permittee can not discharge into subsegments containing endangered species and having a flow of less than 100cfs.
2. Also, this Office has excluded subsegments designated as Outstanding Natural Resource Waters. A list of these waterbodies has been provided to the permittee.
3. The permittee must also verify that no TMDLs have been completed for the receiving waterbodies via the Total Maximum Daily Load Program webpage at LDEQ's website, [www.deq.louisiana.gov](http://www.deq.louisiana.gov). The permittee must contact the Department before discharging to a TMDL waterbody.
4. The permittee must also contact the appropriate regional office 48 hours in advance of discharging. A map and listing of Regional Offices has been included in the permit.
5. Furthermore, effluent limitations are designed to be protective of water quality standards based on effluent characteristics. Effluent limits for Waste Concepts portable permit are based on the best available technology for Centralized Waste Treaters (40 CFR.437.45), Water Quality Standards from LAC33:IX.1113, Table 1, LDEQ Barge Cleaners Guidance Document, and best professional judgment from similar permits and discharges. The permit includes a comprehensive list of all the parameter requirements from each source of influent wastewater, not just certain parameters from each one. Where parameters overlapped, the most stringent was applied. Collectively, all of these considerations act to protect the receiving waterbody.
6. All treated wastewaters must be isolated in batches, analyzed and confirmed as compliant with the terms and conditions of this permit prior to discharge. This assures that the effluent will meet the most stringent of limitations contained in the permit.

An environmental impact analysis (IT questions) was not addressed in the application. It is required only for proposed major sources or expansions to existing major sources.

- II. A. Comment:** LDEQ must consider each individual receiving water body to avoid violation of statutory & regulatory authorities. Permitting a facility to discharge into the waters of Louisiana generally conflicts with state regulations. To act within statutory authority, LDEQ must analyze each waterbody that will receive discharges under the draft permit. (LAC 33.IX.1119.B.2.a.)

**Response:** The Federal Clean Water Act and Louisiana Environmental Quality Act provide for the discharge of treated effluent into waters of the state via the LPDES program. Thus, permitting a facility to discharge under the LPDES program does not conflict with state regulations. LDEQ is charged with water quality management for the State. This is a step-by-step process which involves several interrelated programs that establish controls on the discharge of pollutants and maintain water quality. LDEQ does consider each individual receiving water body. Waterbodies are evaluated individually using the ambient water quality monitoring program to determine if waterbodies are meeting designated uses, what are contributing factors to impairment, and appropriate water quality standards. It is important to realize that waterbodies are not evaluated during the permitting process only, but through other offices and programs at LDEQ with approval of the United States Environmental Protection Agency.<sup>1</sup>

- B. Comment:** Permitting a facility to discharge into all state water bodies violates state and federal regulations because those regulations require different treatment for different water bodies.

**Response:** The discharge permit limits are largely based on technology treatment standards. In most cases, treatment methods and technology standards are designed to maintain water quality. As far as differences in water quality from stream to stream, this Office has placed conditions in the draft permit to protect the most sensitive waterbodies. As discussed in the response to I., the permittee must notify this Office before discharging to a TMDL waterbody (waterbodies identified as impaired with specific loading allocations for dischargers). The permit prohibits discharges into outstanding natural resource water and waters known as habitat for endangered species, recognizing that these waters have special designated uses. The permittee is also directed to LAC33.IX.Subpart I, Table 3 for specific numerical criteria for each receiving stream. Effluent discharges shall not cause an exceedence to numerical criteria for the appropriate receiving water body. Having to meet water quality numerical standards at the "end of pipe", without the benefit of dilution or assimilation affords the highest level of protection.

- C. Comment:** LDEQ must not approve an application for a permit that does not include location of outfalls and discharges, date of commencement for each outfall, and information mapping the path of the discharge.

**Response:** The application was reviewed and determined complete by this Office on October 1, 2005. The purpose of identifying specific locations for discharge in the application is required so the Department fulfills surveillance requirements and has information to make permitting and enforcement decisions. To verify the discharge location, 48-hour notification

is required prior to discharge. The application anticipated operations would commence on October 1, 2005 (page 5 of 22). Operations have not commenced as of this date. The application also includes expected flows for each wastewater source, with a total design capacity or flow of 100,000 gpd (page 3 of 22).

- D. Comment:** The applicant has not applied for sufficient permits to cover most of the proposed discharges.

**Response:** The applicant submitted Application Form SCC-2 which is required for all industrial facilities. The WPC-3 is for facilities cleaning and/or repairing barges. According to the application barge washwater is not the only type of wastewater accepted by the portable unit. Furthermore, the permittee is classified under SIC Code 2992, re-refining lubricating oils and greases not barge cleaning.

- III. A. Comment:** The draft permit's effluent limitations are insufficient, based on inappropriate standards, or unsupported standards. LDEQ's basis for its effluent limitations is inappropriate because the proposed facility does not fit the statutory definition for centralized waste treaters (CWT).

**Response:** The regulations indicate CWT regulations apply to wastewater discharged from a centralized water treatment facility that results from the treatment and recovery of hazardous or non-hazardous industrial metal-bearing wastes, oily wastes and organic-bearing wastes received from off-site. Although not a CWT, CWT Guidelines have been applied to Waste Concepts through best professional judgement since Waste Concepts can receive oily wastewaters from their customers. (They do not generate the wastewater.) In the case of Waste Concepts, effluent limits from Subpart B. Oil Treatment and Recovery were applied in the permit. Oily wastewaters may include crude inland oil spill water, industrial oily wastewater, and slop wastewater, etc. Potential pollutants from barge washwater, ballast, and bilge water have been limited by parameters included in LDEQ Barge Cleaners Guidance Document. Kitchen grease is also limited by best professional judgment based on general permit coverage required by restaurants. Collectively, these sources limit potential discharge pollutants to protect water quality.

The Code of Federal Regulations, 40 CFR Part 400 Subchapter N. Effluent Guidelines and Standards established by promulgation the CWT effluent limitations prescribed for Waste Concepts' effluent. The federal guidelines were developed nationally over a period of several years with extensive public input. The finalized guidelines are a product of regulatory development and public participation.

- B. Comment:** LDEQ uses incorrect assertions to support its effluent limitations. The statement, "Placing the most stringent effluent limitations at the end of pipe will ensure no degradation of water quality." is incorrect.

**Response:** In deriving permit limits for Waste Concepts, LDEQ has considered water quality for any and all potential receiving streams. Provisions have been made in the permit above and beyond those of permits for stationary sources in order to protect endangered species habitat, and waterbodies with approved TMDLs. While no approach can 100% assure no degradation in water quality (spills, natural disasters, etc.), placing the most stringent

effluent limitations at the end of pipe has been EPA's & LDEQ's consistent permitting procedure. This strategy is approved by EPA through the delegation of the NPDES program. The discharge from Waste Concepts will be intermittent with a maximum flow of 100,000 GPD. This is a minor source. Again, the permittee must contact LDEQ before discharging to waterbody for which a TMDL has been done. If no TMDL has been done, no pollutant allocations have been performed to date. This Office works with permit applicants to develop strategies suitable for all parties involved with using and protecting Louisiana's water resources. Not only are these limitations exceptionally stringent, but the batch discharge requirements assure the effluent is in compliance prior to entering waters of the state.

- C. 1. **Comment:** The draft permit's effluent limitations are insufficient to protect all receiving water bodies. The draft permit uses insufficient effluent measurement standards. The draft's permit concentration-based effluent limitations only measure what proportion of a discharge is a pollutant, not the total amount of pollutants discharged. Additionally, a single sample measure of an effluent "batch" will not always reflect true effluent concentrations. Standards for measuring flow are inconsistent and unclear in the draft permit and statement of basis.

**Response:** Concentration limits are used in accordance with LAC 33:IX.2709.F.1.b which states that mass limitations are not necessary when applicable standards and limitations are expressed in other units of measurement.

*The draft permit requires the permittee to measure flow. The statement of basis indicates what type of flow measuring device will be used, a recorder. A recorder is one of many approved flow measurement devices.*

The permit requires the permittee to collect a representative sample to characterize the batch analytically. The effluent must meet permit limits prior to discharge. As a result of public comments, another sample will be taken during discharge to confirm the previous analytical results.

2. **Comment:** Included effluent limitations are insufficient to protect all receiving water bodies.

**Response:** There is no basis for more stringent effluent limitations than those in the draft permit. Effluent limitations in the permit are based on best available technology, water quality standards, barge cleaners guidance document, and best professional judgment. In addition, the permittee must notify the Department 48 hours prior to any discharge. They must notify the Department before discharging to a TMDL waterbody. They can not discharge to streams with low flows less than 100 cfs that are considered critical habitat for endangered species or outstanding natural resources. Finally, this is consistent with similar permits for similar discharges, specifically World Environmental, Inc.(A1110721) and Mo-Dad Global, LLC (A1107094).

3. **Comments:** LDEQ omits effluent limitations for pollutants that are likely to appear in some of the wastewaters listed in the permit specifically, fecal coliform, trichloroethylene and other VOCs (volatile organic compounds), cyanide, and lower COD.

**Response:** All pollutants listed in the aforementioned sources for permit limits have been included in the permit. Fecal coliform was not placed in the permit since sanitary sewage was not listed in the application. The basis for the chemical oxygen demand (COD) limit was the LDEQ Barge Cleaners Guidance Document. There is no basis to lower the effluent limit. If process wastewater is combined with stormwater, COD effluent limitations shall be 125mg/l. In addition total organic carbon (TOC) and biochemical oxygen demand (BOD<sub>5</sub>) effluent limits were included in the permit. BOD<sub>5</sub> is used as a method to measure the amount of dissolved oxygen in the waste stream utilized by organisms during the decomposition of organic material over a five day period. Oily wastewater like described in the application would be high in organic material. Monitoring for BOD<sub>5</sub> allows for the determination of the rate of oxidation in the waste stream. Therefore, to protect against the discharge of substances that will contribute to the lowering of DO in the ambient waterbody to a level below water quality standards, BOD<sub>5</sub> limits have been placed in the permit. These limits are very stringent and applied to new facilities discharging into impaired waterbodies. Volatile organic compounds have been limited in the permit, specifically benzene, toluene, ethylbenzene, and xylene. Other parameters include specific acid compounds, base/neutral compounds, and metals. These compounds represent all priority pollutant groups except pesticides. Nonetheless, a reporting requirement has been included for trichloroethylene. Instead of the in-plant limitation and reporting requirement for cyanide, an effluent limitation based on human health drinking water standards has been placed in the permit.

**IV. Comment:** The public notice does not inform the public of any specific discharge into any specific water. This does not provide customary or sufficient public notice and its draft permit circumvents the public participation requirements. By prohibiting discharges into waters with endangered species, identification of such waterbodies by subsegments circumvents public participation.

**Response:** LDEQ has placed requirements for prior notification to provide the opportunity for Regional Office personnel to observe discharge procedures and permit compliance. As with all other facilities, the facility will be inspected by LDEQ Surveillance. Public notice procedures required at LAC 33.IX.3113 have been followed for the proposed permit. By instructing the permittee where discharges are prohibited by the permit, we are notifying the public of potential receiving streams. Waterbodies prohibited from receiving discharges can be found in LAC 33.IX.1123.Table 3 where subsegments are cross listed with stream description, including names.

<sup>1</sup> Title 33: Part IX. Subpart 2. "The Louisiana Pollutant Discharge Elimination System (LPDES) Program" contains the actual regulations and statutory requirements for the permitting of a facility to discharge to waters of the State.